



DECISION MEMO

ELM Placer Exploration



USDA Forest Service, Northern Region Nez Perce-Clearwater National Forests Red River Ranger District Idaho County, Idaho

I. Background

The Red River District Ranger proposes to approve the claimant's proposal for exploratory digging in previously disturbed areas within the Little Mallard Creek drainage located in the Nez-Perce-Clearwater National Forests, Idaho County, Idaho at T26N R8E Sections 14 and 23, Boise Meridian (see attached maps).

The category for this project is: 36 CFR 220.6(e)(8) *Short-term (one year or less) mineral, energy or geophysical investigations and their incidental support activities that may require cross-country travel by vehicles and equipment, construction of less than one mile of low standard road or use and minor repair of existing roads.*

II. Purpose and Need

The purpose of the action is to test for gold values on unpatented mining claims. The need is to determine if sufficient quantities of valuable minerals exist to warrant further exploration or development.

The Forest Service is legally required to respond to the mining proponent's request to authorized mining based on a proposed plan of operations (36 CFR 228.4). The Forest Service is required to ensure that "operations are conducted, so as, where feasible, to minimize adverse environmental impacts" (36 CFR 228.8).

Forest-wide management direction in the Nez Perce National Forest Plan related to this project can be found on pages II-23 and II-24 (USDA Forest Service, 1987). Direction for minerals includes the following applicable standards:

1. Administer the appropriate laws and regulations relating to minerals in a reasonable and consistent manner.
3. Provide reasonable access to prospect, explore, develop, and produce mineral resources. Evaluate access needs based on requirements of mining operations and environmental factors. Applicable road construction specifications and standards shall be met.
4. Assist miners in developing operating plans that provide for environmental protection and ultimate rehabilitation, while allowing exploration, development, and production to proceed in a reasonable and timely manner.

11. Assist miners in developing reclamation plans which clearly state final management objectives for specific mined areas and detail the procedures and timeframes which will be followed to accomplish those objectives.
12. Meet Forest fish/water quality objectives for all active mining operations.
13. Ensure that State and Federal water quality standards are being met for all active mining operations.

Management area direction for Management Areas (MA) 4 and 10 apply to this project: Encourage exploration and development of mineral resources, while at the same time minimizing surface impacts from those activities (MA 4); and, Manage riparian areas to maintain and enhance their value for wildlife, fishery and aquatic habitat, and water quality (MA 10).

Decision

I have decided to approve the mineral exploration Plan of Operations with the following terms and conditions for the ELM Placer Exploration Project.

The project is currently proposed for the spring and summer of 2016 and may extend through the 2017 operating season, depending on weather and timing. Duration of the operation will be one year or less. Equipment used for exploration activities will include a processing plant (trommel), a skid steer loader and a small excavator.

No excavation or activities associated with this operation will occur outside of previously disturbed areas in Little Mallard Creek Meadows, and no excavated material or effluent will be placed or allowed to fall or flow into undisturbed areas of the wetlands or into any live stream.

Exploration will be accomplished by digging test pits or trenches in a previously disturbed ¼ acre area and processing the excavated material to recover gold values. Each test pit/excavation will be limited to the minimum size required to achieve testing goals. If needed, bench excavation will be utilized to reach bedrock. The test pits will be dug using a small (200 sized) excavator by first removing the topsoil and overburden and stockpiling it separately for later reclamation. Material to be tested will be excavated and stockpiled prior to processing. A trommel (processing plant) will then be used onsite to process the test material. After processing, the test material will be returned to the pit or trench. Once testing is completed for each pit/trench, the overburden will be returned to the pit/trench, with the topsoil placed on top. The disturbed area will then be recontoured to a natural profile and revegetated and mulched, as needed.

Only one pit will be open at a time. This will minimize the amount of reclamation bond required.

Source water for processing test material will come from ground water that will be encountered when excavating each test site. If additional processing water is required it will be withdrawn from an unnamed tributary to Little Mallard Creek. A water use permit will be obtained from the Idaho Department of Water Resources before water will be drafted from any stream located on National Forest System land.

Access to the project area is by Forest Road 222 from the old Red River Ranger Station to FR 222N near the top of Dixie Summit, then down 222N to an existing dispersed campsite. The campsite will be the staging area to access the project area (see below). Only exploratory-related equipment will be allowed into the project area. Up to two ATVs with trailers will be used to transport equipment and supplies to and from the staging area to the project sites: an existing but unauthorized ATV trail will be used for travel to and from the disturbed area. This trail, along with the disturbed area to be sampled will be decompacted and revegetated when sampling is completed. No road construction or reconstruction will be required.

Six to eight individuals will be working on the site at any given time. A 24 ft. motorhome will be used for sleeping/living quarters, possibly along with a number of tents. In addition to facilities within the motorhome a pre-existing wooden outhouse will be used as a sanitary facility. In the event this facility become inadequate, a porta-potty may be brought onto the site.

Some standing dead and/or down timber may be removed for safety issues. These will be left in place for erosion control when work is finished. Live trees will not be cut or removed without prior review and authorization from the District Ranger.

Reclamation will be concurrent with the operation. As testing is completed, processed tailings will be returned to the test pit, covered with the stockpiled overburden and topsoil, then recontoured and revegetated and mulched as needed.

This project falls within the headwaters of Little Mallard Creek. No live water or undisturbed wetlands will be directly affected by this proposal. Approved erosion control measures (see General Requirements and Design Criteria below) will be maintained between any surface disturbance and adjacent streams or wetland areas. A 404 permit will be obtained from the U.S. Army Corps of Engineers before any excavation may begin.

A standard set of design criteria and mitigation measures have been developed for exploration proposals of this type and will be implemented as appropriate for this project along with any additional mitigation that is appropriate. In addition, Idaho Best Management Practices for Mining will be adhered to. A field review which includes the operator will be necessary before the project is initiated to identify specific sites and related issues and possible site specific mitigation measures.

A hazardous material spill control plan will be included as part of the Plan of Operation and will be adhered to at all times. The project will not use any mercury, cyanide, or other hazardous material or refined substance in the recovery or concentration of gold or other precious metals.

A reclamation bond will be calculated by the Forest Service for the amount necessary to do required restoration work and will be submitted by the operator before the Plan of Operation is approved and before work may begin.

As part of this decision, the claimant will be required to:

General Requirements:

- ✓ Notify the District Ranger or minerals administrator at least 48 hours before any work is to begin.
- ✓ Wash all vehicles and equipment used at the site before being brought onto National Forest system lands to prevent the spread of noxious weeds.
- ✓ Avoid disturbance of wetlands and stream riparian zones.
- ✓ Avoid working on saturated soils.
- ✓ Prevent discharge of water into any live stream or wetland.
- ✓ Place weed free straw bales or install silt fence in places identified by a Forest Service representative to minimize sediment migration from stockpiles and/or raw earth.
- ✓ Obtain prior approval from the Forest Service for cutting or removal of trees or other large live vegetation. Downfall may be removed as needed.
- ✓ Set aside cleared slash and green vegetation (e.g., bear grass) during test pit construction. Remove vegetation in clumps, if possible, with the soil mass intact. Store excavated topsoil and subsoil in separate stockpiles to be used during reclamation. Temporarily replant vegetation clumps in the topsoil stockpile.
- ✓ Maintain only one (1) active pit open at any one time. Reclamation may be occurring at one (1) other pit concurrently.
- ✓ Cover water pump intake hose with a 3/32" mesh screen.
- ✓ Collect processing water in the existing pit. Regulate discharge to prevent overtopping the pit, and/or land apply excess water on a site designated by the Forest Service. Application sites will typically be natural sumps or depressions, pits or trap(s) that avoid impacts to wetlands or streams and minimizes impacts to other surface resources. Application rate will be such that overland flow is avoided.
- ✓ Backfill and reclaim each test pit as soon as testing has been completed for that site.
- ✓ Follow the State of Idaho Best Management Practices (BMPs) for all surface disturbing activities, reclamation, and abandonment. BMPs are outlined in the *Best Management Practices for Mining in Idaho (Idaho BMPs) (Idaho Department of Lands, et al. 1992)*.
- ✓ Report accidents or injuries to the Forest Service within 24 hours.
- ✓ Develop a hazardous materials and spill prevention plan and submit it to the District Ranger prior to operations.
- ✓ Store no more than 30 gallons of fuel or oil in the project area. Store all fuel or oil in a secondary containment system that limits spills to the environment.
- ✓ Remove all equipment, garbage and trash resulting from the operation from National Forest system lands prior to October 1, the end of the regular operating season. Dispose garbage and trash at a State of Idaho approved site.
- ✓ Use and maintain a sanitary facility (e.g., porta-potty or self-contained camper) at the project area while operations are ongoing.
- ✓ Comply with all applicable Federal and State fire laws and regulations and take all reasonable measures to prevent and suppress fires on the area of operations and require employees, contractors and subcontractors to do likewise (36 CFR 228.11).

Reclamation:

- ✓ Reclaim test pits by:
 - Restoring subsoil and topsoil to existing natural ground contour.
 - Replanting beargrass clumps or other vegetation in topsoil.
 - Placing locally available slash and duff over topsoil and around beargrass clumps or other replanted vegetation.
 - Seeding and mulching disturbed areas with appropriate seed mix and certified weed free straw.
- ✓ Perform reclamation concurrently with the operation. Test pits and associated trails will be reclaimed as soon as practicable when testing is completed at a site.

Reclamation Bond and Water Right:

- ✓ A reclamation bond must be received for this proposal by the Forest Service before work can begin. Bond amount will be calculated by the minerals administrator in an amount sufficient to cover the costs to reclaim the site to pre-project condition.
- ✓ Obtain any necessary permits prior to approval of the Plan of Operations.
- ✓ Seasonal closeout and reclamation must be completed no later than October 1. This is to ensure that all equipment is removed from the site and reclamation is complete before winter weather sets in.

Once the Forest Service receives the bond, the Plan of Operations may be approved.

Design Criteria and Mitigation Measures

The project includes the following design criteria. These are not all-inclusive, as the Forest Plan standards are incorporated by reference (USDA Forest Service 1987, as amended).

Operations

1. Where water is used to process mineral samples onsite using sump or settling ponds, silt fences or other suitable erosion control devices shall be placed between the pond and live waters (including streams, creeks, and wetlands) such that sediment laden water is not delivered directly to these waters.
2. Do not locate test pits and spoils piles (temporary or permanent) in any undisturbed areas in the wetland. USFS personnel would approve the location of all project activities before project activities occur, to assure undisturbed wetland areas are avoided.
3. Reclaim all disturbed soils associated with project activities as soon as possible to minimize soil erosion. The topsoil from each test pit shall be stockpiled separately onsite and used to cap the reclaimed pit.
4. Do not remove standing dead, dying or downed coarse woody debris from any RHCA.
5. Where feasible, distribute existing woody debris and vegetation stockpiled onsite over the disturbed area(s) to maintain organic matter content and long-term soil productivity.
6. Do not construct or place structures (i.e., sheds, shelters) in areas of undisturbed wetland or floodplain within the project area.
7. Do not refuel equipment in or near test pits.
8. If existing native surface roads are used for access, reconstruct waterbars, where present, on the native surface project roads prior to the end of the operating season. Follow guidelines and typical drawings, as specified.

9. Road maintenance shall be conducted to minimize damage to the road and to minimize sediment delivery from the road surface to watercourses.
10. Do not remove, disturb or damage any instream fish habitat structure (e.g., log jam, rock cluster, etc.). If it is necessary for prudent or safe operations to do so, notify the Forest such that the District or Forest fisheries biologist may inspect the proposed changes to fish habitat.
11. Where it is necessary to maintain sanitation facilities on-site, do not locate facilities closer than 100 feet to any lake, stream, river or wetland; and have spill prevention control and countermeasures such that effluent from the facility does not reach any lake, stream, river or wetland.
12. If the total oil or oil products storage at a work site exceeds 1,320 gallons or if a single container (e.g., fuel truck) exceeds a capacity of 660 gallons, the purchaser shall prepare and implement a Spill Prevention Control and Countermeasures (SPCC) Plan. The SPCC plan will meet applicable EPA requirements (40 CFR 112), including certification by a registered professional engineer. (SFP: FW-119, 120, 122).

Cultural Resources

If previously undiscovered cultural resources (historic or prehistoric objects, artifacts or sites) are exposed as a result of operations, cease operations until notification is received from a Forest Service archeologist or the District Ranger that the Forest Service and the operator has complied with provisions for mitigating unforeseen impacts as required by 36 CFR 228.4(e) and 36 CFR 800.

III. Rationale for Decision and Reasons for Categorically Excluding the Decision

A. Category of Exclusion and Rationale for Using the Category

Based on information in this document and the project record, I have determined that no extraordinary circumstances affecting resource conditions exist (36 CFR 220.6), that this project may be categorically excluded from documentation in an EA or EIS, and that it meets all the criteria outlined for 36 CFR 220.6(e)(8): *Short-term (one year or less) mineral, energy or geophysical investigations and their incidental support activities that may require cross-country travel by vehicles and equipment, construction of less than one mile of low standard road or use and minor repair of existing roads.*

The rationale for my decision is based on: (1) the proposed action fully meeting the criteria for Categorical Exclusions, (2) the proposed action meeting the purpose and need, (3) the findings related to extraordinary circumstances, discussed below, (4) the project's consistency with laws and regulations, including the Forest Plan, and (5) my review of the Biological Assessments (BA), Biological Evaluations (BE), specialists' reports, and project record.

B. Finding of the Absence of Adverse Effects to Extraordinary Circumstances

Based on the findings for resource conditions described below, I have determined that no extraordinary circumstances are associated with my decision. Forest Service direction at 36 CFR 220.6(b) describes the resource conditions that should be considered in determining whether extraordinary circumstance related to the proposed action warrant further analysis and documentation in an EIS or EA.

Additionally, 36 CFR 220.6(b) states, "The mere presence of one of more of these resource conditions does not preclude use of a categorical exclusion. It is the existence of a cause-effect relationship between a proposed action and the potential effect on these resource conditions and if such a relationship exists, the degree of the potential effect of a proposed action on these resource conditions that determines whether extraordinary circumstances exist."

1. Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat or Forest Service sensitive species.

The Interdisciplinary Team (IDT) Botanist and Fisheries Biologists have determined the proposed actions will have no effect on species listed as federally threatened, endangered or proposed for federal listing or their habitat. Critical habitat for steelhead and bull trout is located approximately five miles downstream of the project area in the lower reaches of Little Mallard Creek and the Salmon River.

The Interdisciplinary Team Wildlife Biologist determined the proposed actions would affect Canada lynx, a federally threatened species, because the project site occurs within a Lynx Analysis Unit. However, the Nez Perce National Forest has no known Canada lynx population at this time. In addition, the McGuire wildfire (2012) severely reduced the surrounding area's ability to provide denning habitat or foraging habitat for lynx over the next two decades. Any impacts associated with the operation (noise, human presence) to lynx moving through the area would be short term.

The IDT Botanist, and Wildlife and Fisheries Biologists have determined the proposed actions will have no impacts on sensitive species or their habitat with the following exceptions: The project may impact individual gray wolf, North American wolverine, Coeur d'Alene salamander, ring-necked snake, Western (boreal) toad, Northern and least moonwort, Mendocino sphagnum, westslope cutthroat trout, and interior redband trout, but will not adversely impact their populations or their viability on the forest. Any impacts associated with the operation (noise, human presence) would be short term.

Suitable habitat for the above species will not be altered because the project will not affect or will have negligible effects on their habitats. Project design criteria and best management practices (BMPs) have been included to protect water resources. (Also see PACFISH/INFISH Riparian Habitat Conservation Areas (RHCAs) below.)

Based on the above assessment, no effects exist that will cause an incremental cumulative effect and no extraordinary circumstances were identified for these resources. For the complete analyses, see the Fishery, Wildlife and Botany Biological Assessments and Evaluations and specialists' reports in the project record.

2. Floodplains, wetlands or municipal watersheds.

No designated municipal watersheds exist in the project area, thus there will be no effects to municipal watersheds. The proposed activities will not modify or occupy floodplains to an extent greater than already exists. Although project activities are located within a wetland boundary, project design criteria (see Design Criteria #2, page 5) would restrict all exploration activities to existing, previously-disturbed areas in the wetland. Accordingly, this project would not directly or indirectly affect wetlands to an extent greater than already exists.

The proposed project is also consistent with all applicable State and Federal water quality laws because project design criteria and best management practices (BMPs) have been included to

protect water resources.

The proposed actions will have no effects to watershed resources, and the activities are consistent with soil and water standards in the Nez Perce National Forest Plan, including the PACFISH amendment. Therefore, no direct, indirect or incremental effects that will cause a cumulatively significant effect are anticipated to water quality of streams within the area; downstream waters; or resources in floodplains, wetlands, and municipal watersheds.

Based on this analysis, no extraordinary circumstances were identified regarding the effects to water quality of streams within the area; downstream waters; or resources in floodplains, wetlands, and municipal watersheds; thereby complying with EO 11988, EO 11990, and FSH 1909.15 Chapter 31.2.2.

3. Congressionally designated areas, such as wilderness, wilderness study areas or national recreation areas.

The project area is not located in any congressionally designated area, and therefore, no extraordinary circumstances were identified to these resources.

4. Inventoried roadless areas or potential wilderness areas.

The project is located within a portion of the Gospel Hump Roadless area, identified in the Nez Perce National Forest Plan FEIS and under the Idaho Roadless areas (36 CFR 294(c)). The effects of the project on the Roadless Area were evaluated (located in project file). It was determined that the project will cause no effects to roadless characteristics from either the 2001 Roadless Rule (36 CFR 294 Subpart B) or Idaho Roadless Rule (36 CFR 294 Subpart C). Thus, no extraordinary circumstances were identified.

5. Research Natural Areas.

The project area is not located in any research natural area, and therefore, no extraordinary circumstances were identified to this resource.

6. American Indians and Alaska native religious or cultural sites.

Because no cultural properties are located within the area of potential effects, the Forest Cultural Resource Specialist has made a *No Historic Properties Affected* determination for the project per the North Idaho Programmatic Agreement. Therefore, no extraordinary circumstances were identified to native religious or cultural sites.

7. Archaeological sites or historical properties or areas.

The Idaho State Historic Preservation Officer, or the Forest Archaeologist via the use of the North Idaho Programmatic Agreement, has determined that no archaeological or historic property will be adversely affected by this project. Therefore, no extraordinary circumstances were identified to these resources

IV. Interested and Affected Agencies, organizations, and Persons Contacted

On July 31, 2015, letters providing information and seeking public comment were mailed to individuals, organizations, a variety of state and local agencies, and the Nez Perce and Coeur d'Alene Tribes. Additionally, project information was also made available at http://prdp2fs.ess.usda.gov/Internet/FSE_DOCUMENTS/stelprd3833727.pdf.

Four individuals/organizations commented during the public comment period. Their comments were considered in the resource analyses, and are addressed in Appendix A.

V. Findings Required by Other Laws

Based on my review of the actions associated with this project, I find that the ELM Exploration Project is consistent with applicable Federal laws and regulations.

Federal Land Policy and Management Act (FLPMA): The actions are consistent with the Federal Lands Management Policy Act because they recognize the Nation's need for domestic sources of minerals. Design criteria and mitigation measures associated with the actions ensure compliance with the FLPMA.

National Forest Management Act and Nez Perce National Forest Plan: The actions are consistent with the Nez Perce National Forest Plan (USDA Forest Service 1987, as amended), as required by the National Forest Management Act of 1976. In addition, design features and mitigation measures ensure compliance with the act.

PACFISH/INFISH Riparian Habitat Conservation Areas (RHCAs): All activities associated with the project comply with direction regarding PACFISH/INFISH because effects to riparian wildlife or fish species or habitat are not anticipated. Because of the nature of the activities (test pit exploration using the excavated pit as the settling pond/water source), site conditions (exploratory activities are limited to previously disturbed areas of the wetland), and the design criteria, mitigation and BMPs in place, sediment is not expected to reach any stream or live water in any amount that would result in measurable effects. Access to the project area is on an existing system road.

Although the project is located within an RHCA, riparian management objectives (RMOs) are not expected to be affected because appropriate design criteria will prevent effects to water quality. In addition, all ground disturbance will be restricted to areas that have already been disturbed in the past, and RMOs will be maintained over the long term.

Endangered Species Act: A Forest Service Fish Biologist, Wildlife Biologist, and Botanist evaluated the proposed action with regard to the Endangered Species Act as documented in the Biological Assessments, Biological Evaluations, and specialist's reports, and determined this project is consistent with the Endangered Species Act.

Clean Air Act: This project will comply with the provisions of the Clean Air Act, and the rules, regulations, and permit procedures of the Environmental Protection Agency (EPA) and the Idaho Department of Environmental Quality (IDEQ). No prescribed burning or other activity with the potential to significantly affect air quality is proposed.

Clean Water Act and State Water Quality Laws: The Interdisciplinary Team Hydrologist has determined that this project complies with the Clean Water Act, and state and federal water quality laws because it will have no notable effects to the water quality of area or downstream waters.

Migratory Bird Treaty Act: This project complies with the Migratory Bird Treaty Act since it will result in no substantial loss of migratory bird habitat, nor will there be any measurable impact(s) on Neotropical migratory bird populations as a whole.

The project complies with the U.S. Fish and Wildlife Service Director's Order #131 related to the applicability of the Migratory Bird Treaty Act to federal agencies and requirements for permits for "take." In addition, the project complies with Executive Order 13186 because the analysis meets agency obligations as defined under the January 16, 2001 Memorandum of Understanding between the Forest Service and U.S. Fish and Wildlife Service designed to complement Executive Order 13186.

National Historic Preservation Act: Because no cultural properties are located within the area of potential effects, the Forest Cultural Resource Specialist has made a "no historic properties affected" determination for the project per the North Idaho Programmatic Agreement. Therefore, this project meets the agency's responsibilities under the National Historic Preservation Act (16 USC 470), as amended, and is consistent with the *Programmatic Agreement between the Idaho State Historic Preservation Officer, the Advisory Council on Historic Preservation and the Region I National Forests in Northern Idaho Regarding the Management of Cultural Resources*.

American Indian Treaty Rights: The Nez Perce Tribal staff has had the opportunity to review the project for impacts to Nez Perce Tribe Treaty rights or Nez Perce Tribal members' abilities to exercise those rights. The Nez Perce Tribe did not identify any concerns.

No effects to watershed resources, fisheries, wildlife or plant resources will occur as a result of the proposed actions (see B. Finding of the Absence of Adverse Effects to Extraordinary Circumstances). By ensuring viability of all species and protection of watershed resources, the proposed actions are consistent with treaty obligations and trust responsibilities.

Environmental Justice: The actions associated with this project will not disproportionately impact consumers, Native American Indians, women, low-income populations, other minorities or civil rights of any American Citizen in accordance with Executive Order 12898. No disproportionate impacts to minority or low-income populations were identified during scoping or the effects analysis.

Prime Farm Land, Range Land, and Forest Land: The actions associated with this project comply with the Federal Regulations for prime land. The definition of "prime" forest land does not apply to lands within the National Forest System. The project area does not contain any prime range land or farm land. Federal lands will be managed with appropriate sensitivity to the effects on adjacent lands.

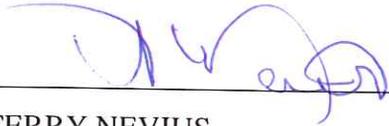
Energy Requirements: No unusual energy demands are required to implement the proposed actions.

Other Laws or Requirements: The actions associated with this project are consistent with all other Federal, State or local laws or requirements for the protection of the environment and cultural resources.

VI. Contact Person

Questions regarding this decision should be sent to Jeff Chynoweth, Small NEPA Team Coordinator, c/o Nez Perce-Clearwater NFs Supervisor's Office, 903 Third Street, Kamiah, Idaho 83536; 208-935-4260 or FAX 208-935-4275.

VII. Signature of Deciding Officer



TERRY NEVIUS

District Ranger



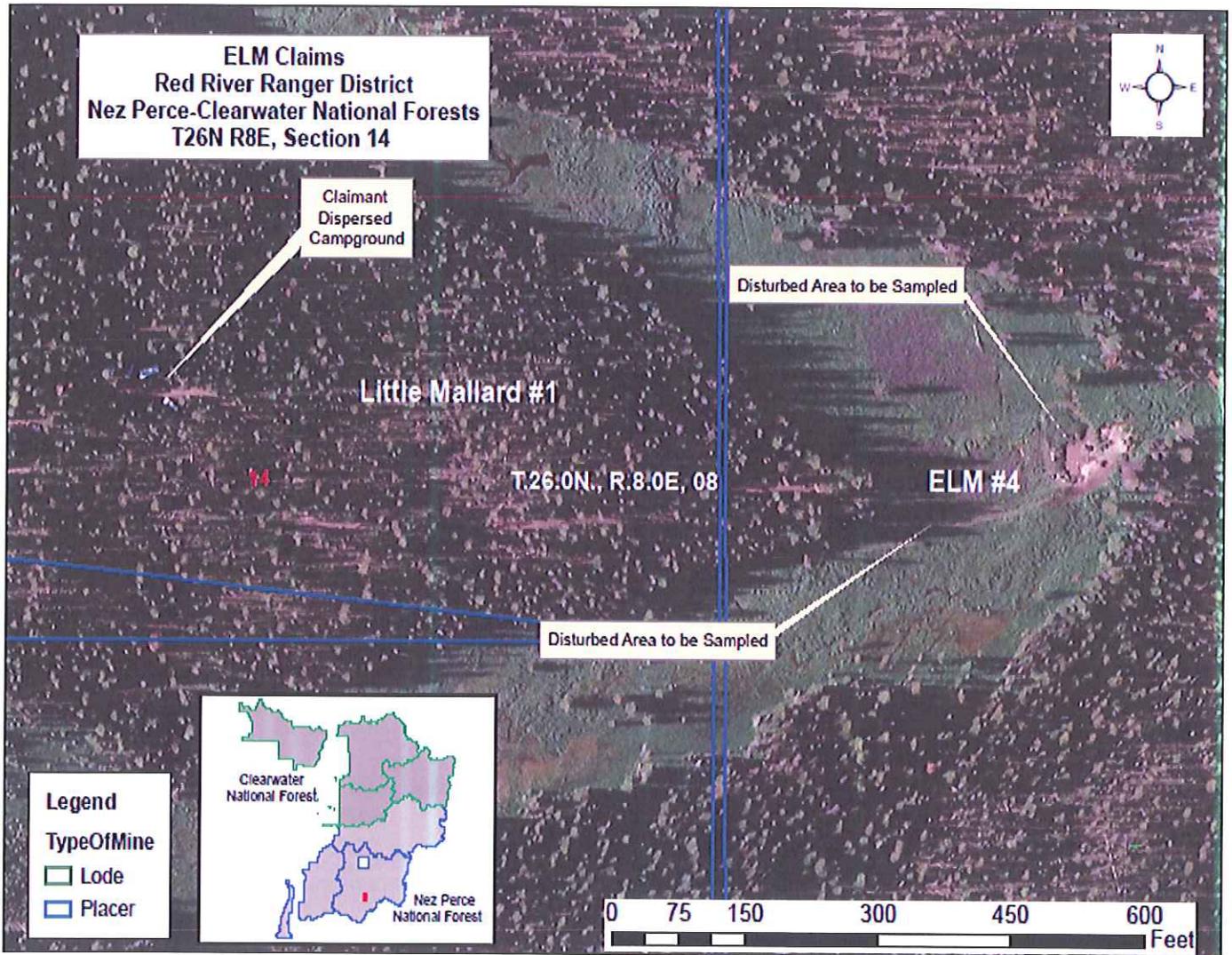
Date

cc: Marty Jones, Clint Hughes

Enclosures: Maps of the Project Site

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Map 1 of ELM Placer Exploration Project



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April 6, 2016, Clint Hughes

Maps 2 and 3 of ELM Placer Exploration Project

